

## Message Text

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ACTION L-03

INFO OCT-01 IO-13 ADP-00 AF-10 ARA-16 EA-11 EUR-25 NEA-10

RSC-01 OIC-04 SCI-06 EB-11 COME-00 INT-08 COA-02

CIAE-00 DODE-00 PM-07 H-03 INR-10 NSAE-00 NSC-10

PA-03 PRS-01 SS-15 USIA-15 ACDA-19 AEC-11 AGR-20 CG-00

JUSE-00 DOTE-00 FMC-04 NSF-04 OMB-01 CEQ-02 RSR-01

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R 300815Z JUL 73

FM USMISSION GENEVA

TO SECSTATE WASHDC 826

INFO USMISSION USUN NY

UNCLAS SECTION 1 OF 2 GENEVA 3981

E.O. 11652 N/A

TAGS: PBOR, UN

SUBJ: LOS SCI WG MTG JULY 27: MORNING SESSION

1. SUMMARY- US REP INTRODUCED ARTICLES ON POWERS AND FUNCTIONS OF OPERATIONS COMMISSION (OC) AND RULES AND RECOMMENDED PRACTICES COMMISSION. REST OF SESSION WAS DEVOTED TO DISCUSSION OF US PROPOSALS. END SUMMARY.

2. US REP INTRODUCED FIVE-PAGE DOCUMENT CONTAINING PROVISIONS ON POWERS AND FUNCTIONS OF OPERATIONS COMMISSION AND RULES AND RECOMMENDED PRACTICES COMMISSION. STATED THIS PAPER WAS PREPARED AS ALTERNATIVE TO ENTERPRISE SYSTEM WHICH HAD BEEN DEBATED ON PREVIOUS DAY. HE NOTED THAT IF ENTERPRISE IS TREATED AS PRINCIPAL ORGAN OF AUTHORITY--TO WHICH US WOULD HAVE NO OBJECTION--OC SHOULD HAVE SAME STATUS IN WG TREATMENT. HE STATED OC IS INTENDED TO BE COMPLETE SYSTEM FOR EXPLORATION AND EXPLOITATION OF AREA. HE NOTED THAT ENTERPRISE AND UNCLASSIFIED

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LICENSING SYSTEM AS REFLECTED IN US PROPOSAL ARE IN

SOME RESPECTS VIRTUALLY IDENTICAL. UNDER ONE CONCEPT, ENTERPRISE WOULD HAVE SOLE RIGHT TO EXPLOIT AREA; UNDER US PROPOSAL, OC WOULD HAVE EXCLUSIVE RIGHT TO AUTHORIZE EXPLOITATION. IN EITHER CASE, THERE WOULD BE NO EXPLOITATION WITHOUT AGREEMENT BY AUTHORITY. US REP OUTLINED IN DETAIL US PAPER, NOTING IT DESCRIBED THE LEGAL RELATIONSHIP BETWEEN AUTHORITY, IN US CASE THE OC, AND THOSE WHO WILL ACTUALLY WORK TO PRODUCE COMMON HERITAGE. HE POINTED OUT THAT UNDER ENTERPRISE SYSTEM, ENTERPRISE WILL ISSUE CONTRACTS CONTAINING TERMS AND CONDITIONS SIMILAR TO THOSE SPECIFIED FOR LICENSES UNDER OC PROPOSAL. HE STATED THAT PRINCIPAL DIFFERENCE BETWEEN ENTERPRISE AND LICENSING SYSTEM IS THAT IN LATTER CASE TREATY AND APPENDICES WOULD SPECIFY PROVISIONS OF LEGAL RELATIONSHIP BETWEEN AUTHORITY AND THOSE UNDERTAKING EXPLOITATION, WHILE UNDER ENTERPRISE TERMS AND CONDITIONS WOULD BE WORKED OUT LATER.

3. USSR REP MADE FIRST SUBSTANTIVE RESPONSE TO US STATEMENT, STATING US PROPOSALS GAVE OC BROAD TERMS OF REFERENCE WHICH MAKE OC ONLY ORGAN OF AUTHORITY WITH FULL POWERS. HE COMPLAINED OC WOULD BE A TECHNICAL BODY COMPOSED OF APPROXIMATELY NINE PERSONS WHICH WOULD HAVE COMPLETE AUTHORITY WITH FUNCTIONS NOT SUITABLE TO SUCH A BODY AND GAVE AS EXAMPLE INSPECTION WHICH HE SAID WAS VERY SENSITIVE FUNCTION. HE PROPOSED THAT INSPECTION FUNCTION BE DELETED. SIMILARLY, HE ASKED THAT OC FUNCTIONS WITH RESPECT TO DISPUTES BE DELETED. HE MADE STRONGEST OBJECTION TO GIVING OC POWER TO INITIATE PROCEEDINGS FOR ALLEGED VIOLATIONS OF CONVENTION, SAYING USSR WOULD, NEVER, UNDER ANY CIRCUMSTANCES, AGREE TO GIVING ANY TECHNICAL COMMISSION THE POWER TO INITIATE PROCEEDINGS AGAINST A SOVEREIGN STATE. HE ARGUED THAT UNDER US SYSTEM, SMALL GROUP OF PRIVATE PERSONS MAKING UP OC WOULD BE ABLE TO DRAG STATES INTO COURT. HE ASKED THAT THIS PROVISION BE DELETED AND ANNOUNCED THAT IF PROPOSAL REMAINED IN TEXT, USSR WOULD BE OBLIGED TO OBJECT TO ENTIRE CONCEPT OF OC. HE NOTED THAT UNDER US PROPOSALS, OC JURISDICTION WOULD HAVE POWER TO CARRY OUT

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ACTIVITIES ON CONTINENTAL SHELF. THIS PROVISION, HE SAID, WOULD BE SUICIDAL TO WHOLE IDEA OF AN OC. USSR REP DID NOT HAVE SERIOUS OBJECTIONS TO RULES AND RECOMMENDED PRACTICES COMMISSION, WHICH HE DESCRIBED AS MODERATE AND REALISTIC.

4. FRENCH REP NOTED CERTAIN SIMILIARITIES BETWEEN US AND FRENCH PROPOSALS AND EXPRESSED HOPE THAT FUSION

OF TWO CONCEPTS MIGHT BE POSSIBLE. MALTA RECALLED IT HAD PROPOSED IN ITS TREATY SEVERAL SPECIALIZED SUBSIDIARY ORGANS AND ASKED THESE BE REFLECTED IN WG TEXT. HE ALSO ASKED THAT MALTESE LICENSING PROPOSALS BE INCLUDED AMONG POWERS AND FUNCTIONS OF COUNCIL.

5. CANADIAN REP SAID HIS DEL HAD ALWAYS STRESSED THAT REGARDLESS OF EXPLOITATION SYSTEM ADOPTED, THERE MUST BE REGULATORY ORGAN TO SUPERVISE EXPLOITATION, PARTICULARLY IN REGARD TO PROTECTION OF MARINE ENVIRONMENT AND HUMAN LIFE. HE SAID US OC PROPOSAL MEETS MANY REQUIREMENTS FOR SUCH AN ORGAN AND COULD BE ADOPTED FOR ANY EXPLOITATION SYSTEM. HE PROPOSED THAT TWO ADDITIONAL FUNCTIONS BE ADDED TO US PAPER: THE ISSUANCE OF EMERGENCY ORDERS IN REGARD TO PROTECTION OF MARINE ENVIRONMENT (WHICH HE DESCRIBED AS A STOP WORK ORDER FOR VIOLATION OF INTERNATIONAL RULES AND STANDARDS), AND FUNCTIONS IN REGARD TO CONSERVATION OF RESOURCES BY WHICH COUNCIL WOULD EXERCISE CONTROL OF EXPLOITATION OF SEABED RESOURCES TO PREVENT WASTE.

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6. AUSTRALIAN REP, ALTHOUGH COMPLIMENTING US ON PAPER, QUESTIONED NEED TO HIGHLIGHT DEEP DRILLING AS SPECIAL PROBLEM AND STATED THAT GIVING OC POWER TO INSPECT IN COASTAL AREA RAISES SOME DIFFICULTIES AND THAT TEXT MIGHT BE REWORDED. AUSTRALIAN REP ALSO RAISED QUESTION OF WHAT WOULD HAPPEN IN CASE MORE THAN ONE APPLICANT APPLIED FOR LICENSE FOR SAME AREA. GHANIAN REP SAID US PROPOSAL HAS NUMBER OF CONTROVERSIAL ITEMS AND ASKED THAT SEVERAL OF THESE BE PLACED IN BRACKETS. HE NOTED IN PARTICULAR THAT GHANA OBJECTS TO ISSUING LICENSES FOR EXPLOITATION OF SEABED RESOURCES, HE ALSO ASKED THAT TWO FUNCTIONS BE TRANSFERRED TO TEXT OF PLANNING COMMISSION WHICH HIS DEL PREFERS.

7. BULGARIAN REP SAID THAT OC APPEARS TO BE A MAJOR ORGAN AND WOULD CARRY OUT MOST OF IMPORTANT WORK. HE STATED HE COULD AGREE WITH LICENSING CONCEPT BUT STRESSED OC SHOULD BE SUBSIDIARY AND TECHNICAL BODY AND MUST ACT UNDER DIRECTION OF COUNCIL AND THEREFORE UNCLASSIFIED

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SHOULD NOT HAVE POWER TO ISSUE LICENSES. HE SUGGESTED CHANGE IN US TEXT WHICH IN EFFECT WOULD GIVE OC POWER ONLY TO MAKE RECOMMENDATIONS TO COUNCIL. HE SAID INSPECTIONS AND DISPUTE SETTLEMENTS FUNCTIONS OF OC SHOULD BE ELIMINATED ALTHOUGH OC COULD ASSIST COUNCIL IN THESE AREAS. FURTHER, OC SHOULD HAVE NO POWER TO ISSUE LICENSES. HE CONCLUDED BY STATING US PROPOSAL WOULD HAVE TO BE REDRAFTED TO BE ACCEPTABLE.

8. UK REP SAID HIS DEL IN GENERAL AGREEMENT WITH SUBSTANCE OF US PROPOSAL ALTHOUGH THERE WERE SOME POINTS OF DIFFERENCE. HE GAVE AS AN EXAMPLE THE UK VIEW THAT ORGAN RESPONSIBLE FOR ISSUING LICENSE SHOULD BE COJNCIL ALTHOUGH ACTUAL ISSUANCE WOULD BE BY SECRETARIAT AND HE ASKED FOR FOOTNOTE TO NOTE HIS VIEW. HE COMMENTED THAT POWER OF OC TO INITIATE PROCEEDINGS MIGHT BE TOO BROAD AND COVER ANY VIOLATION AND HE SUGGESTED IT BE LIMITED TO VIOLATIONS OF TECHNICAL NATURE SUCH AS VIOLATIONS OF TERMS AND CONDITIONS OF LICENSING.

9. PERU REP EXPRESSED SOME SURPRISE AT VIEW OF "SOCIALIST COUNTRIES" THAT US PROPOSAL ARE EXTREME. HE SAID ON THE CONTRARY, US PROPOSALS ARE INOFFENSIVE AND CONTAIN NO NEW CONCEPTS. HE STRESSED US LICENSING SYSTEM PROPOSAL IS WELL KNOWN AND HAS BEEN REJECTED BY SOME DEVELOPING COUNTRIES. HE EXPRESSED SPECIFIC RESERVATIONS ON PROVISION THAT OC WOULD ISSUE LICENSE

IF APPLICANT FOR LICENSE IS CERTIFIED BY SPONSORING STATE TO MEET SPECIFIED REQUIREMENTS. HE DOUBTED THIS WAS A POWER AND FUNCTION OF THE OC. SPANISH REP STRESSED THAT US PROPOSAL CONSTITUTES ANTITHESIS OF ENTERPRISE SYSTEM WHICH SPAIN SUPPORTS. HE SAID, THEREFORE, US PAPER IS UNACCEPTABLE AND CONSEQUENTLY THERE WAS NO POINT IN EXAMINING IT IN DETAIL.

10. TANZANIA REP DISCUSSED THE DIFFERENCES BETWEEN ENTERPRISE AND LICENSING SYSTEM AND SAID CORE ISSUE IS ONE OF CONTROL . HE COMPLAINED US SYSTEM DOES NOT CONFER TOTAL CONTROL IN AUTHORITY. HE STATED THAT POWER CAN BE ABUSED BUT IF GIVEN TO INTER-  
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NATIONAL COMMUNITY COLLECTIVELY, ABUSE WILL BE MINIMIZED. HE ADDED THAT, ALTHOUGH TANZANIA SEABED ARTICLE CONTAINED TERM LICENSING, THIS TERM HAS DEVELOPED NEW MEANING AND THEREFORE TANZANIA HAS GIVEN UP USE OF TERM LICENSE IN RESPECT TO ITS OWN PROPOSAL.

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## Message Attributes

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**Review Authority:** kellerpr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 16 JAN 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <16-Jan-2002 by phillir0>; APPROVED <31-Jan-2002 by kellerpr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** LOS SCI WG MTG JULY 27: MORNING SESSION  
**TAGS:** PBOR, UN  
**To:** SECSTATE WASHDC USUN NEW YORK  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005